

REMARKS

Claims 1 to 39 were pending in the present application.

Claims 1 to 34 were provisionally elected via teleconference on 2/12/03.

Claims 35 to 39 have been cancelled herein in affirmation of the provisional election.

Claims 1 to 34 will be pending upon entry of this Amendment, and

Claims 1, 25, 28, 31, 33, and 34 will be the only pending independent claims.

Claim Election

Applicants hereby affirm their prior provisional election of claims 1 to 34. Accordingly, Claims 35 to 39 have been cancelled herein without prejudice to pursue these claims in another application.

Section 103 Rejections

Claims 1 to 34 stand rejected under 35 U.S.C. Section 103(a) as obvious over U.S. Patent No. 6,000,699, filed February 24, 1998 and issued December 14, 1999 to George M. Long (hereinafter "Long") in view of U.S. Patent No. 5,362,064, filed September 8, 1993 and issued November 8, 1994 to Richard Lofink *et al.* (hereinafter "Lofink"). Applicants respectfully traverse this Section 103 rejection.

The present invention as claimed is directed towards a method of resolving a hand of blackjack that has resulted in a "push" by determining if a player has won the hand by using a random outcome. A push results when the value of a player's hand is equal to the value of the dealer's hand. (Note that "value" refers to the card value and not necessarily numeric value; *i.e.* a natural 21 has a higher card value than a three-card 21, but an equal numeric value.) In conventional blackjack, when a push results, the player retains his wager amount, neither winning or losing anything. In a blackjack game incorporating the present invention, the player wins or loses his initial wager amount based upon a secondary, random outcome **without making any additional wager.**

In a blackjack game according to Long, a player may place a secondary **wager** to become “eligible for a supplemental payout in the event the final number count of the player’s hand . . . results in a tie or ‘push’” (Long, col. 3, Ins. 39 to 54). The only secondary random outcome described in Long is used to determine the payout amount the player is awarded if he placed a secondary wager on a push occurring (and a push actually occurs) (Long, col. 4, Ins. 15 to 27; col. 4, Ins. 58 to 65). The Long reference makes no suggestion that the push itself is resolved (either in the player’s or the dealer’s favor). In other words, despite the Examiner’s implication to the contrary, Long does not teach “determining if the player has won the hand of black jack” when it has been determined that the hand “resulted in a push,” as recited in Applicants’ independent claims.

In a modified baccarat game according to Lofink, a player “may make an additional **wager** that the hand will end in a tie [push].” (Lofink, Abstract; col. 1, Ins. 60 to 63) “Winning wagers on the Tie hand bet are paid of at odds of nine-to-one . . . [but] [i]f a Tie hand occurs, all wagers . . . are ‘pushes’ and the amount wagered is returned to the bettor.” (Lofink, col. 2, Ins. 9 to 16) Lofink also teaches that a secondary random outcome may be used to select a particular winning hand to be treated as a conventional push is treated. (Lofink, col. 6, Ins. 58 to 61) (This is done to maintain a house advantage in lieu of charging a conventional 5% commission.) There is no teaching in Lofink that a random outcome is used to resolve a push situation. In other words, neither the Lofink reference, nor the Long reference makes any suggestion that a push itself is resolved (either in the player’s or the dealer’s favor).

Applicants’ respectfully assert that the Examiner has mischaracterized the references and that the passages cited by the Examiner do not in fact mean that which the Examiner claims, particularly when read in context. Therefore, despite the Examiner’s assertions to the contrary, the following claimed features are not taught by either Long or Lofink or any combination of the two because neither reference even contemplates resolving pushes at all:

determining if the player has won the hand of blackjack [which was a push]

after said determining if the player has won the hand of blackjack [which was a push], arranging for the player to receive payment of a winning amount based on the wager amount

deciding if the push will be resolved

receiving from the player an indication of whether the push will be resolved

the random outcome comprises a first state indicating that the player has won the hand of blackjack and a second state indicating that the player has not won the hand of blackjack

determining if the player has won at least one of the plurality of the hands of blackjack [that were pushes]

a single random outcome determines if the player has won all of the plurality of hands of blackjack [that were pushes]

a separate random outcome determines if the player has won each of the plurality of hands of blackjack [that were pushes]

determining if the plurality of players have won the plurality of the hands of blackjack [that were pushes]

a single random outcome determines if all of the plurality of players have won all of the plurality of hands of blackjack [that were pushes]

a separate random outcome determines if each of the plurality of players have won the respective hand of blackjack [that were pushes]

determining if the player has won the first and second hands of blackjack [that were pushes]

the random outcome determining if the player has won the hand of blackjack [that was a push]

determining if the player has won the hand of blackjack [that was a push]

displaying to the player an indication of at least one of (i) the random outcome and (ii) the determination if the player has won the hand of blackjack [that was a push]

arranging for the player to receive payment of a winning amount based on the wager amount [for a push hand]

Thus, given the absence of the above feature from the teachings of the references, Applicants respectfully request that the Examiner withdraw his Section 103 rejection of Claims 1 to 34.

Even if the above features were taught by the references, which they are not, the Examiner has not provided a proper motivation to combine the references. The Examiner concedes that Long does not teach at least one feature of each of the thirty-four pending claims. However, the only statement describing a motivation to make the corresponding thirty-four combinations that the Examiner asserts teach Applicants claims is "By having a random outcome in a tie situation, one of ordinary skill in the art would be able to provide game players with a final chance to win. . . To do so would provide game players with a definite win or loss to entice a more exciting and entertaining game of chance." Although not always relevant, this "global motivation" apparently applies to all of the Examiner's combinations. Even if it was relevant to each combination, which

it is not, the Examiner's stated motivation is not proper in that neither reference provides any such suggestion, nor has the Examiner provided any reasoning indicating why one would have thought to make any of the various combinations. In other words, the Examiner provides no support for his assertions that resolving ties (or providing "a final chance to win") makes for a more exciting or entertaining game. The fact that neither reference actually teaches resolving tied hands makes it even more unlikely that one would be motivated to do so based on the Examiner's combinations.

Finally, it is clear that the Examiner has improperly relied upon hindsight in that the only place that reasoning related to his stated motivations are found are within Applicant's own description of the problem solved by the present invention: "A player may . . . not be satisfied when a hand of blackjack results in a push. The lack of a winning result, or even a losing result, may reduce the player's excitement and interest in the game." (pg. 2, lns. 15 to 17)

Conclusion

For the foregoing reasons it is submitted that all of the pending claims are in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

If there remains any question regarding the present application or any of the cited references, or if the Examiner has any suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Steven Santisi at telephone number 203-461-7054 or via electronic mail at santisi@walkerdigital.com.

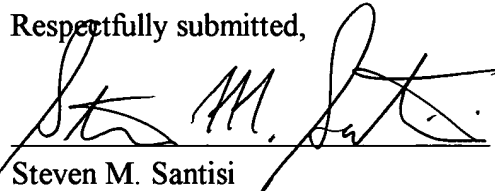
Petition for Extension of Time to Respond

Applicants hereby petition for a **three-month** extension of time with which to respond to the Office Action. Please charge **\$465.00** for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271.

August 26, 2003
Date

Respectfully submitted,



Steven M. Santisi
Attorney for Applicants
Registration No. 41,157
santisi@walkerdigital.com
Walker Digital, LLC
203-461-7054 / voice
203-461-7300 / fax